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10/579,534	04/18/2007	Sergey Popov	1561-US	2993
24505	7590	03/23/2010		
DANIEL J SWIRSKY				
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BET SHEMESHI, 99544				
ISRAEL				
EXAMINER				
HOLLOWAY, IAN KNOBEL				
ART UNIT		PAPER NUMBER		
3763				
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03/23/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/579,534

## Applicant(s)

POPOV, SERGEY

## Examiner

IAN K. HOLLOWAY

## Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 67-74 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 67-74 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

Receipt is acknowledged of applicant's amendment filed (1/25/2010). Claims 1-66 have been canceled without prejudice. Claims 67-74 are pending and an action on the merits is as follows.

Applicant's arguments with respect to claims 67-74 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 67-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cuppy (US patent 5755709), herein after referred to as C, in view of Cuppy (US pg Pub 2004/0181192), herein after referred to as D.

Regarding **Claim 67, C** discloses a catheter (**30**) having a catheter hub (**40**, the rear of the catheter) and an axial through channel with a proximal end portion a needle assembly including a needle (**18**, needle) with a distal sharp point, which extends through said catheter channel, and a safety means (**Fig. 15**, the needle has been withdrawn into the safety cover) having a protector for protecting said needle distal sharp point after introducing said catheter into a blood vessel, wherein said needle assembly is in a protected position when said needle is protected by said protector, wherein in said protected position said needle assembly has a distal end and a proximal end

**C** fails to disclose the cap and the use of a luer lock

However, **D** teaches a luer lock (**Fig 2**) catheter cap (**100**, attachable to the catheter) having a tapered male luer member (**100**) with a tapered end for occluding a proximal opening of said catheter after the transposition of said needle to said protected position, said catheter cap being detachably mounted on said needle assembly; and mounting means for detachable mounting of said catheter cap on said needle assembly, (**90**) wherein said mounting means includes stabilizing means(**Fig. 2**, once the cap is completely screwed on, it can no longer be moved axially) that prevents rotation of said tapered male luer member with respect to said needle assembly when mounting said catheter cap onto said catheter, and wherein when said needle assembly is in said protected position said catheter cap is positioned at either of said ends of said needle assembly, and said tapered end of said tapered male luer member is directed proximally when said catheter cap is positioned at said proximal end of said needle

assembly and distally when said catheter cap is positioned at said distal end of said needle assembly.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to use the construction as taught by **D**, since **D** states at paragraph 7 that such modification would reduce exposure to blood. Thus, it would have been obvious to one of ordinary skill in the art to apply the construction as taught in **D**, to improve the device of **C** for the predictable result of making it safer to use.

Regarding **Claim 68**, **D** discloses has first and second mounting elements **(90 and 100)** one of which is disposed on said needle assembly and the other on said catheter cap, wherein said stabilizing means is made as at least one slot **(100, threading)** and at least one projection, **(90)** one of which slot and projection is located on said first mounting element and the other of which slot and projection is located on said second mounting element wherein said projection slidably enters said slot

Regarding **Claim 69**, **D** discloses catheter cap is detachably retained on said needle assembly by friction between said first and second mounting elements. **(Fig. 2)**

Regarding **Claim 70**, **D** discloses shielding means **(16)** preventing said tapered luer member from accidental contact with an operator, wherein said shielding means is made as a shielding wall enclosing said tapered male luer member and protruding beyond said tapered end

Regarding **Claim 71**, **D** discloses catheter cap is disposed on said protector.  
**(Fig. 2)**

Regarding **Claim 72, D** discloses a hub, (**Fig. 2**) and wherein said catheter cap is disposed on said hub.

Regarding **Claim 73, D** discloses one of said mounting elements is disposed on said needle assembly and forms a receptacle in which said catheter cap is housed and wherein said receptacle acts as said shielding means. (**Fig. 2**)

Regarding **Claim 74, D** discloses a thread for fixing said catheter cap onto said catheter. (**100**, threading)

Applicant's arguments filed 1/25/2010 have been fully considered but they are not persuasive.

### ***Response to Arguments***

**Applicant states**, the new claims obviate the prior art, however, the claims remain rejected under the grounds seen above.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to IAN K. HOLLOWAY whose telephone number is (571)270-3862. The examiner can normally be reached on 8-5, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas D. Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Art Unit: 3763

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/Ian K Holloway/  
Examiner, Art Unit 3763

/Nicholas D Lucchesi/  
Supervisory Patent Examiner, Art Unit 3763